

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

JUL 29 2011

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	2 CA-CR 2011-0142-PR
	)	DEPARTMENT A
Respondent,	)	
	)	<u>MEMORANDUM DECISION</u>
v.	)	Not for Publication
	)	Rule 111, Rules of
	)	the Supreme Court
ROBERT BURRELL RICO, JR.,	)	
Petitioner.	)	
_____	)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20034097

Honorable Christopher C. Browning, Judge

REVIEW GRANTED; RELIEF DENIED

Robert Burrell Rico, Jr.

Tucson  
In Propria Persona

E C K E R S T R O M, Presiding Judge.

¶1 Pursuant to a plea agreement, petitioner Robert Rico, Jr. was convicted in 2004 of one count of sexual assault and one count of aggravated assault in exchange for the dismissal of twelve other counts. The trial court sentenced Rico to consecutive, aggravated prison terms totaling twenty-nine years. We denied relief on Rico’s petition for review of the court’s denial of his first petition for post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. *State v. Rico*, No. 2 CA-CR 2009-0230-PR (memorandum decision filed Jan. 11, 2010). Rico subsequently filed a “Petition for Writ of Habeas Corpus/Motion to Quash Indictment/Revised Indictment,” which the court treated as a petition for post-conviction relief pursuant to Rule 32.3. The court also found Rico’s claims precluded, and in any event, without merit. *See* Ariz. R. Crim. P. 32.2(a). This petition for review followed the court’s denial of the petition and a related motion for reconsideration. “We will not disturb a trial court’s ruling on a petition for post-conviction relief absent a clear abuse of discretion.” *State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). We find no abuse here.

¶2 On review, Rico argues the trial court abused its discretion by treating his petition for writ of habeas corpus as a petition for post-conviction relief and by denying his claim that his indictment was flawed and that the court accordingly lacked jurisdiction over his offenses. Based on the record before us, we cannot say the court abused its discretion in ruling as it did. The court denied relief in two thorough rulings, the first denying Rico’s petition for writ of habeas corpus and the second denying his motion for reconsideration, that clearly identified Rico’s arguments and correctly ruled on them in a

manner that will allow future courts to understand its resolution. We therefore approve and adopt the court's rulings and see no need to reiterate them here. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993).

¶3 Because the trial court did not abuse its discretion by denying post-conviction relief, we grant the petition for review but deny relief.

/s/ Peter J. Eckerstrom  
PETER J. ECKERSTROM, Presiding Judge

CONCURRING:

/s/ Joseph W. Howard  
JOSEPH W. HOWARD, Chief Judge

/s/ J. William Brammer, Jr.  
J. WILLIAM BRAMMER, JR., Judge